

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

---

|                      |   |                              |
|----------------------|---|------------------------------|
| RICHMOND W. RIDDICK, | ) |                              |
|                      | ) |                              |
| Appellant,           | ) |                              |
|                      | ) |                              |
| vs.                  | ) | Civil No. <u>07-2418-A/P</u> |
|                      | ) |                              |
| MICHAEL J. ASTRUE,   | ) |                              |
|                      | ) |                              |
| Appellee.            | ) |                              |
|                      | ) |                              |

---

RECOMMENDATION THAT CASE BE DISMISSED WITH PREJUDICE  
FOR FAILURE TO PROSECUTE

---

Before the court by order of reference is plaintiff Richmond Riddick's Social Security Appeal filed June 17, 2007. On February 22, 2008, the Clerk of the Court entered a scheduling order directing Riddick to file a brief in support of his claims by no later than March 22, 2008. On March 24, 2008, Riddick filed a Motion for Extension of Time which was granted by the court on March 25, 2008. On April 3, 2008, Riddick filed a second Motion for Extension of Time to File Brief which was also granted by the court. Riddick, however, did not file his brief by May 5, 2008, as required by the order. As a result, on May 14, 2008, the court entered an Order to Show Cause ordering Riddick to file his brief within fifteen (15) days from the date of the order. The court warned Riddick that failure to comply with the order "shall result

in a recommendation to the District Judge that his case be dismissed with prejudice for failure to prosecute." Riddick's brief was due May 29, 2008; however, he did not file a brief in compliance with the show cause order. To date, Riddick has still not filed his brief in support of his claims.

In light of Riddick's failure to comply with the scheduling order, and the Order to Show Cause, the court recommends that his complaint be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute his claim. See Ortega v. Comm'r of Social Security, No. 00-6094, 2001 WL 266884, at \*1 (2d Cir. Mar. 19, 2001); Von Sutton v. Barnhart, No. 1:05cv1109, 2006 WL 2792410, at \*1 (E.D. Ca. Sept. 27, 2006); Camacho v. Comm'r of Social Security, No. 04 Civ.6686, 2006 WL 278399, at \*1 (S.D.N.Y. Feb. 1, 2006).

Respectfully submitted.

s/ Tu M. Pham

---

TU M. PHAM

United States Magistrate Judge

June 9, 2008

---

Date

#### NOTICE

ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT MUST BE FILED WITHIN TEN (10) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT. 28 U.S.C. § 636(b)(1)(C). FAILURE TO FILE THEM WITHIN TEN (10) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.